

COQUINA OIL CORPORATION

IBLA 76-633

Decided March 30, 1977

Appeal from rejection of high bid tendered for a parcel of land at competitive oil and gas lease sale (NM 28011).

Affirmed.

1. Appeals--Oil and Gas Leases: Competitive Leases

A rejection of a high bid tendered for a parcel of land offered at a sale of competitive oil and gas leases will be affirmed on appeal where the record contains sufficient information from the U.S. Geological Survey to establish that the pre-sale minimum evaluation for the tract, which greatly exceeded the rejected bid, was not arbitrary or capricious, it having been arrived at by a lease sale committee consisting of two geologists and three engineers which in addition to considering the results of a computer analysis took into account a hand compilation and the judgment and knowledge of the committee.

2. Oil and Gas Leases: Generally--Oil and Gas Leases: Competitive Leases

The U.S. Geological Survey is the Secretary's technical expert in matters concerning geologic evaluation of tracts of land offered at a sale of competitive oil and gas leases and the Secretary is entitled to rely on its reasoned analysis.

APPEARANCES: Robert C. Bledsoe, Esq., of Cotton, Bledsoe, Tighe, Morrow & Dawson, Attorneys at Law, Midland, Texas, for appellant; Frederick N. Ferguson, Esq., Office of the Solicitor, United States Department of the Interior, for the Geological Survey.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Coquina Oil Corporation appeals from the April 30, 1976, decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting Coquina's bid for a 400-acre tract of land (Parcel 29) described as lot 4 and SW 1/4 NW 1/4 of sec. 3 and lots 1, 2, 3, 4 and S 1/2 N 1/2 of sec. 4 in T. 9 S., R. 31 E., N.M.P.M., Chaves County, New Mexico.

The lands involved in this appeal were originally offered for competitive lease sale March 30, 1976, as part of 94 parcels of land totalling 25,031.87 acres within the known geologic structures of certain fields in Eddy, Chaves, Lea and Roosevelt Counties, New Mexico, pursuant to Section 17 of the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. § 181 (1970). The notice of sale clearly specified the bidding procedures and provided:

* * * the right is reserved to reject any and all bids. Any bonus bid considered as inadequate on the basis of the estimated value of the parcel will be rejected. * * *

The record shows that eight bids were received for parcel 29 ranging from \$.76 per acre to \$ 64.80 per acre. Coquina submitted the high bid for the parcel of \$ 64.80 per acre for a total of \$ 25,920.65. However, based on the U.S. Geological Survey's pre-sale minimum bid evaluation of \$ 166.40 per acre for a total parcel value of \$ 66,560, the New Mexico State Office, BLM, rejected the bid as inadequate. From that decision Coquina has taken this appeal.

First, we point out that it has long been the Department's policy in the administration of its competitive leasing regulations to seek the return of fair market value for the grant of leases. See Exxon Company, U.S.A., 15 IBLA 345, 358 (1974); 43 CFR 3120.3-1. 1/ Thus, the right was reserved to reject any and all bids to provide for an instance where a fair return would not be received.

1/ This regulation provides in pertinent part:

"Award of lease. - Following receipt of the report of the auction, or the opening of the sealed bids, the authorized officer, subject to his right to reject any or all bids, will award the lease to the successful bidder. * * *"

[1] The Government is not bound to accept any bid which might be considered inadequate, especially one which is merely a fraction of the resource value assigned to the tract by the Government's experts. H. & W. Oil Company, Inc., 22 IBLA 313 (1975). The Secretary (or his delegate) has not been required to show that a bid is inadequate, unreasonable, or lacking in good faith in order to exercise his discretion in determining whether a bid should be accepted or rejected. It has been sufficient that he feels it was not in the public interest to accept a given bid, and the record is devoid of any indication that the rejection is arbitrary or capricious. Getty Oil Company, 27 IBLA 269 (1976); Kerr-McGee Corporation, 6 IBLA 108 (1972), aff'd Kerr-McGee Corp. v. Morton, 527 F.2d 838 (D.C. Cir. 1975); Humble Oil & Refining Co., 4 IBLA 72 (1971); Humble Oil & Refining Co., A-30906 (December 5, 1967); Pan American Petroleum Corp., A-29510 (August 13, 1963).

Coquina contends on appeal that its bid for parcel 29 is fair and adequate and that it should be awarded the lease. It admits that it had adequate notice of the reserved right to reject its bid, but challenges the Department's method of ascertaining the minimum acceptable leasing value.

It contends that the bidding was open to the entire petroleum industry, yet the next highest bid was \$ 11,620.65 less than its own high bid. In an effort to discredit the Geological Survey's basis for the estimated value it cites several recent lease purchases in the area:

* * * (1) price of \$ 31.75 per acre paid, approximately five miles from this tract for Parcel 21 on March 30, 1976, at the same sale, and (2) price of \$ 36.75 per acre paid for Parcel 22 at the same sale, approximately seven miles from this lease. The State of New Mexico was paid the sum of \$ 35.19 in January, 1973, for a lease covering a full section, which is the Northwest offset section to the tract in question here. The State of New Mexico sale involves public bidding as well and the State royalty was only 1/8.

Appellant also questions the Survey's use of computer analysis of information from the Pennzoil No. 1 Pubco "33" Federal well which it asserts is "situated 810 feet from South line and 1980 feet from East line in Section 33, Township 8 South, Range 31 East, Chaves County, New Mexico, * * * is a direct North offset to this 400-acre parcel in question." Appellant contends that the computer analysis is inaccurate because of factors which either could not be fed into the computer or have been inadvertently ignored.

The Geological Survey has responded to appellant's allegations through the Office of the Solicitor providing extensive background information which indicates that a careful and detailed presale evaluation was accomplished by a lease sale committee consisting of two geologists and three engineers. In view of the fact that their evaluation so greatly exceeded appellant's bid, the Survey recommended rejection of the bid.

Regarding appellant's reference to lower prices for alleged comparative lease purchases in the area, the Geological Survey points out that 3-year old lease sale data are not representative criteria for determining current economic value. The lease sale data cited of \$ 31 to \$ 37 per acre for parcels 5 to 7 miles away is not necessarily indicative of the value of parcel 29 inasmuch as that tract is offset by a completed well with tangible control data. Moreover, appellant's bid of \$ 64.80 per acre for parcel 29 is a good indication in itself that the \$ 31 to \$ 37 per acre values are not valid comparisons for parcel 29. Further, the fact that a particular company, Pennzoil, did not bid on the parcel does not indicate that it has less value. Bidding by that company could be dependent upon many variables inherent to the company which vary at any given point in time.

As appellant has indicated the Survey did use data obtained by the Pennzoil No. 1 Pubco "33" well, which is a direct 810 feet offset to parcel 29, in the evaluation of parcel 29. There is also no market available in the area at the present time. The Geological Survey emphasizes that past economics are no indication of the present and future economics in light of current conditions. If additional wells are drilled and sufficient reserves established, it is probable that a market would become available.

The Survey adheres to the opposite view as to the role of computer analysis in establishing tract values. While we are faced with a difference of opinion as to technique and interpretation of technical information, there is an adequate rational basis for the Survey's determination. Every oil and gas prospect is subject to numerous varying factors. Rather than ignoring many factors as appellant would have us do, the use of the computer program is, as the Geological Survey says, advantageous since it is a means whereby all available geologic, reservoir and economic data can be integrated to develop "a discounted cash flow present worth value from an estimated range of variables." This Board has repeatedly acknowledged the usefulness of such analysis in conjunction with expert evaluation as a tool for considering a wide diversity of factors in establishing lease values. Getty Oil Company, supra; Arkla Exploration Company, 25 IBLA 220 (1976).

In summary, the Geological Survey states:

* * * the computer was employed as one of the tools in the evaluation of Parcel No. 29, for the very reason that all data could be considered in the program, and further, such computer was risk weighted from 0.5 to 1.0 to cover the wide range of variables. The results of the computer were supported by hand computation and the results then weighed by the Lease Sale Committee composed in this instance of two geologists and three engineers. * * *

The appellant does not present any data in the allegations which was not considered in the evaluation of Parcel No. 29. Contrary to the fears of appellant, such evaluation by the computer is not blindly left to the machine. * * *

[2] The Geological Survey is the Secretary's technical expert in matters concerning geologic evaluations, and the Secretary is entitled to rely on its reasoned analysis. Arkla Exploration Co., supra, see also Clear Creek Inn Corporation, 7 IBLA 200, 213-214 (1972). Where those officials who made the recommendation to reject the bid were duly authorized to do so by the Director of the Geological Survey, the BLM properly accepted and acted upon the advice of the Survey.

We find therefore, that the data of record more than adequately demonstrate a rational basis for and substantiate the BLM's actions in relying on the Survey's recommendations in this matter. Where that action is supported by the record the determination will not be disturbed. Howell Spear, 8 IBLA 93 (1972); Antoine "Fats" Domino, 7 IBLA 375 (1972).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Martin Ritvo

Administrative Judge

I concur:

Anne Poindexter Lewis
Administrative Judge

ADMINISTRATIVE JUDGE FISHMAN DISSENTING:

I dissent from the majority opinion on the basis of my dissents in Arkla Exploration Co., 25 IBLA 220, 224-228 (1976) and Exxon Company, U.S.A., 15 IBLA 345, 363-371 (1974).

Frederick Fishman

Administrative Judge

